

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPEALATE SIDE

WRIT PETITION NO. 542 OF 2005

Badrinarayan Ramkishore Tiwari.

...Petitioner.

Vs.

State of Maharashtra & Ors.

...Respondents.

....

Mr.E. K. Sasidharan for the Petitioner.

Mr. C.R. Sonawane, AGP for the Respondents.

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CORAM : [DR.D.Y.CHANDRACHUD](#), J.

July 20, 2005.

P.C.:

The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal, by its order dated 9th November 2004, dismissed an appeal filed by the Petitioner against the declaration of a slum area on 2nd September 2003. The declaration which is published in the Official Gazette on 25th September 2003 covered a plot of land admeasuring 3491.1 sq.mtrs. comprised in C. T. S. Nos.463, 464 and 466. The Tribunal had several appeals before it and amongst them was Appeal No.7 of 2004 that was filed by the Petitioner. The Petitioner claims to be the "Imla Malak" or

owner of certain chawls situated at CTS 463 (part), 464 and 466 admeasuring 744 sq. mtrs. Admittedly, the Petitioner is not an owner of the land on which the structures have been constructed. The Tribunal noted that in the Memo of Appeal, the number of rooms in the Chawl had been kept blank and even the area in respect of which the Appellant laid claim had not been specified. Subsequently, when this was pointed out to the Appellant-Petitioner, a pursis was filed on 6th November 2004 specifying the area in respect of which the Petitioner stakes his claim as 744 sq.mtrs.

2. The Tribunal has noted in para 10 of its order that in the appeals before it, no grievance was made that the procedure enunciated in the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, has not been duly followed. For the sake of record, it would be necessary to note that no such submission has been urged before this Court also. The site was inspected by the Competent Authority and the report which has been extracted in the impugned order of the Tribunal

shows that there were 113 huts with a population of 550 persons.

The position of the civic amenities is found to be as follows :

“Drainage : The gutters in the area are open and insufficient for flowing away the waste water.

Roads and Passages : There are narrow lanes and passages for ingress and egress in the area.

Public lights : There is no provision of public lights in the area and the hutment dwellers have taken electric connections in their huts at their own costs.

Dispensary : There is no private or public dispensary in the area.

Public bathrooms : There are no public bathrooms in the area.

Balwadi and School : There is no Balwadi or School in the area.”

3. Having regard to this factual position, the Tribunal was justified in coming to the conclusion that there was a lack of basic sanitation and civic amenities. It appears that some tenants have come forward to support the appellants before the Tribunal. The Vile Parle Swatantra Nagar Griha Nirman Society, which was a society comprised of the residents of the aforesaid CTS numbers, had, however, appeared before the Tribunal and supported the

declaration of the area as a slum. The area declared as a slum suffers from a lack of basic amenities. The Tribunal has adverted to the fact that the appellants before it including the Petitioner herein, did not have any right, title or interest in respect of the land in question. This is not disputed by Counsel appearing on behalf of the Petitioner. He submits that the Petitioner is the owner of the structure comprised in a portion of the land. Be that as it may, the finding of the Tribunal regarding the lack of basic amenities is founded on site inspection. The declaration of the slum cannot be regarded as illegal or arbitrary. The exercise of the jurisdiction under Article 227 of the Constitution is, in the circumstances, not warranted. The petition shall accordingly stand dismissed. There shall be no order as to costs.

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